

**AMENDMENT TO H.R. 2366, AS REPORTED
OFFERED BY MR. CONYERS OF MICHIGAN**

(Small Business Definition)

Page 6, line 23, insert before the period the following: “and had revenues in each of the last 2 years of \$5,000,000 or less”.

Page 19, line 10, strike “(14)” and insert “(15)” and after line 9 insert the following:

1 (14) SMALL BUSINESS.—

2 (A) IN GENERAL.—The term “small busi-
3 ness” means any unincorporated business, or
4 any partnership, corporation, association, unit
5 of local government, or organization that has
6 fewer than 25 full-time employees as deter-
7 mined on the date the civil action involving the
8 small business is filed and had revenues in each
9 of the last 2 years of \$5,000,000 or less..

10 (B) CALCULATION OF NUMBER OF EM-
11 PLOYEES.—For purposes of subparagraph (A),
12 the number of employees of a subsidiary of a
13 wholly owned corporation includes the employ-
14 ees of—

15 (i) a parent corporation; and

1 (ii) any other subsidiary corporation
 2 of that parent corporation.

(Title II Applicable to Small Business)

Page 21, line 12, insert after “title” the following:
“brought against a small business”.

(Definition of Product and Product Liability Action)

Page 6, beginning in line 16 redesignate paragraphs
(9) and (10) as paragraphs (11) and (12), respectively,
and add after line 15 the following:

3 (9) PRODUCT.—
 4 (A) IN GENERAL.—The term “product”
 5 means any object, substance, mixture, or raw
 6 material in a gaseous, liquid, or solid state
 7 that—
 8 (i) is capable of delivery itself or as an
 9 assembled whole, in a mixed or combined
 10 state, or as a component part or ingre-
 11 dient;
 12 (ii) is produced for introduction into
 13 trade or commerce;
 14 (iii) has intrinsic economic value; and
 15 (iv) is intended for sale or lease to
 16 persons for commercial or personal use.

1 (B) EXCLUSION.—The term “product”
2 does not include—

3 (i) tissue, organs, blood, and blood
4 products used for therapeutic or medical
5 purposes, except to the extent that such
6 tissue, organs, blood, and blood products
7 (or the provision thereof) are subject,
8 under applicable State law, to a standard
9 of liability other than negligence; or

10 (ii) electricity, water delivered by a
11 utility, natural gas, or steam.

12 (10) PRODUCT LIABILITY ACTION.—

13 (A) GENERAL RULE.—Except as provided
14 in subparagraph (B), the term “product liabil-
15 ity action” means a civil action brought on any
16 theory for a claim for any physical injury, ill-
17 ness, disease, death, or damage to property that
18 is caused by a product.

19 (B) The following claims are not included
20 in the term “product liability action”:

21 (i) NEGLIGENT ENTRUSTMENT.—A
22 claim for negligent entrustment.

23 (ii) NEGLIGENCE PER SE.—A claim
24 brought under a theory of negligence per
25 se.

1 (iii) DRAM-SHOP.—A claim brought
2 under a theory of dram-shop or third-party
3 liability arising out of the sale or providing
4 of an alcoholic product to an intoxicated
5 person or minor.

(Making Title I Applicable to only Product Liability Actions)

Page 6, line 22 and page 8, lines 1, 11, and 16,
strike “civil action” and insert “product liability action”.

(Definition of Hate Crime)

Page 5, strike lines 23 through 25 and insert the
following:

6 (5) HATE CRIME.—The term “hate crime”
7 means a crime in which the defendant intentionally
8 selects a victim, or in the case of property crime, the
9 property that is the object of the crime, because of
10 the actual or perceived race, color, religion, national
11 origin, ethnicity, gender, disability, or sexual orienta-
12 tion of the victim or owner of the property.

**(Making Section 103 Applicable to Punitive Damages
Irrespective of State Law)**

Page 7, beginning in line 17, strike “, to the extent
permitted by applicable State law,”.

**(Allowing State to Elect Nonapplicability by Enacting a
Referendum or Initiative)**

Page 11, line 9, after “a statute” insert “, an initiative, or referendum”, add “and” at the end of line 10, in line 13, strike “; and” and insert a period, and strike line 14

Page 21, insert after line 7 the following:

1 (d) ELECTION OF STATE REGARDING NONAPPLICA-
2 BILITY.—This title does not apply to any action in a State
3 court against a small business in which all parties are citi-
4 zens of the State, if the State enacts a statute, an initia-
5 tive, or referendum—

6 (1) citing the authority of this subsection; and

7 (2) declaring the election of such State that this
8 title does not apply as of a date certain to such ac-
9 tions in the State.